



Regulatory Advisory

October 22, 2008



TRU Advisory: 08-04

TRU ATCM Requirements for Leased/Rented TRUs

This advisory explains the Air Resources Board (ARB) policy with regard to identification number (IDN) application and operator reporting requirements for owner/operators of leased/rented California and non-California based transport refrigeration units (TRU) and TRU generator sets (gen sets), as required under title 13, California Code of Regulations (CCR), section 2477 (TRU Airborne Toxic Control Measure, or TRU ATCM).

Background

In addition to the in-use performance standards to reduce diesel particulate matter emissions, the TRU ATCM requires that owner/operators of California-based TRU/ TRU gen sets file applications with ARB for IDNs, and that operators initially file separate reports (Operator Reports). Updates to the ARB IDNs and Operator Reports are also required within 30 days of changes specified in the TRU ATCM. The requirements are set forth at title 13, California Code of Regulations (CCR), section 2477. In response to the requirements, TRU and TRU generator set rental and leasing companies subsequently informed ARB staff that the requirements as they applied to their industry would impose an excessive ongoing reporting burden. In response, ARB staff, in consultation with rental and leasing groups, developed an optional streamlined process for rented and leased TRU/TRU gen sets that would significantly reduce the industry's reporting requirements while still providing the level of information to ARB required by the TRU ATCM. The ARB Equipment Registration (ARB ER) system and related batch upload process for electronic IDN application and Operator Report submittals were designed to be compatible with these voluntary streamlined procedures.

For the purposes of the TRU ATCM, "Owner" is defined as any person, party, or entity that legally holds the title of a TRU/TRU gen set, excluding a bank or financial institution. "Operator" is defined as any person, party, or entity that operates a TRU/TRU gen set for the purposes of transporting perishable goods, excluding the driver and third party maintenance/repair service. "Owner/operator" means a requirement applies to the owner and/or operator of a TRU/TRU gen set, as determined by contract between parties if the two parties are separate business entities. "Terminal" is any place a TRU/TRU gen set equipped truck, trailer, shipping container, railcar or TRU gen set is regularly garaged, maintained, operated, or dispatched from, including a dispatch office, cross-dock facility, maintenance shop, business, or private residence.

The in-use performance standards, compliance dates, and reporting deadlines specified in the TRU ATCM and compliance assistance materials are on the TRU website at <http://www.arb.ca.gov/diesel/tru.htm>. Forms for ARB IDN applications and Operator Reports will be available on the TRU website by December 1, 2008.

What are ARB's policies?

On a pilot basis, ARB is simplifying the procedures for leased and rented TRU/TRU gen sets. This will provide owners that lease and rent TRU/TRU gen sets the ability to delegate the responsibilities of the TRU ATCM to the lessee, provided those responsibilities are delegated in the lease-rental contract. TRU/TRU gen set "lessors" are owners of TRU/TRU gen sets that convey the use of their property by lease or rental agreement to renters or lessees. For the purposes of the ARB IDN and Operator Reports, the terms "renter" and "lessee" have the same meaning, in that they hold property (e.g. TRU) under a lease or rental agreement. A TRU/TRU gen set rental yard or lease business qualifies as a terminal. A "rental unit" is a

TRU/TRU gen set that is rented with no contractual term, and the renter may return the unit to the lessor at any time without contractual consequence. A “lease unit” is a TRU/TRU gen set that is leased under a contractual term, typically 13 months or more.

If TRU rental and leasing companies elect not to use the streamlined procedures for rented and leased TRU/TRU gen sets, they will be required to comply with the reporting requirements as set forth in the TRU ATCM (title 13, CCR, section 2477). Long form ARB IDN applications will be filled out manually and mailed to ARB. The long form IDN application includes operator and terminal information for each lessee and terminal information on the lessor’s California terminals. Processing hardcopy IDN applications may take ARB 30 days or longer to process. Rental and leasing companies would also have to update IDN application information within 30 days of any changes to the fleet (e.g. lessee and short-term rental renter information would be required). ARB staff believes the voluntary streamlined process is less burdensome and encourages, but does not require, its use.

Owner (lessor) Requirements (streamlined):

- Comply with the in-use performance standards. This responsibility cannot be delegated to the lessee, but the cost of compliance may be passed to the lessee if covered in the contract;
- Apply for an ARB IDN for each TRU/TRU gen set, unless delegated by written agreement to the lessee (see below);
- Paint or affix the ARB IDN onto the TRU/TRU gen set housing (as described in the TRU ATCM), unless delegated by written agreement to the lessee;
- Submit an initial Operator Report for each California terminal listing each TRU/TRU gen set ARB IDN domiciled at a terminal (leased units in the possession of a lessee do not need to be entered in the initial Operator Report);
- Update ARB IDN information within 30 days when ownership, equipment, engine, or compliance information changes;
- Update Operator Reports within 30 days when owner/lessor information changes, terminals are removed or contact information changes, or ARB IDNs are added to or removed from a terminal’s inventory. Updates are not required for rental units every time the unit is rented or returned.

The owner (lessor) may delegate to the operator (lessee) the responsibilities of the ARB IDN application through a lease or rental contract. At least 10 days prior to the lessee submitting an IDN application, the owner (lessor) is required to submit an ARB Third Party Agreement Form to ARB showing proof of the contractual delegation (see below), and provide a signed copy of the form to the lessee.

Operator (lessee) Requirements (streamlined):

- Apply for an ARB IDN for each TRU/TRU gen set, if delegated by contract to the lessee by the lessor (lessor must have submitted Third Party Agreement form at least 10 days before applying for an ARB IDN);
- Provide lessor with a copy of the ARBER TRU Registration Confirmation;
- Paint or affix, if applicable, and maintain the ARB IDN on the TRU/TRU gen set housing (as described in the TRU ATCM);
- Submit an initial Operator Report for each terminal located in California listing all ARB IDNs of owned and leased TRU/TRU gen sets domiciled at the terminal, including leased TRU/TRU gen set ARB IDNs (ARB IDNs for rental units do not need to be listed);
- Update Operator Reports within 30 days when business or contact information changes, terminals are added or removed, or ARB IDNs are added or removed (owned and leased units only).

Delegation:

“Delegation” is entrusting by contract another party to act on the owner’s behalf without forfeiture of any rights or property. To delegate ARB IDN application responsibilities to an operator (lessee), the owner shall submit an ARB Third Party Agreement Confirmation Form (SSD/EAB-Form # 28) for leased units, with the signature of the lessor’s responsible official. The lessor must attach a copy of the page(s) of the lease contract that identifies the parties to the contract and the page(s) of the lease contract with the contractual language highlighted or delineated that demonstrates delegation of the requirements. Submit SSD/EAB Form # 28 and the highlighted contract pages to the ARB via fax at (916) 327-6251, email (PDF) at tru@arb.ca.gov, or mail to:

California Air Resources Board
Stationary Source Division (TRU)
P.O. Box 2815
Sacramento, California 95812

The responsible official is the individual employed or otherwise retained by the lessor’s company that has authority to certify that the legal agreement described above is in effect and that the responsibilities for compliance and/or reporting with the TRU ATCM have been delegated to the lessee. By signing the ARB Third Party Agreement Confirmation Form for leased units, the lessor certifies that the lessee has received a copy of the form and has been notified of the delegation of the TRU ATCM IDN application requirement. The lessee, in return, must send a copy of the ARBER TRU Registration Confirmation to the lessor upon completion of the ARB IDN application.

For more information

To obtain a copy of the regulation or other related compliance assistance documents, visit the TRU website at <http://www.arb.ca.gov/diesel/tru.htm>. Additional questions may be addressed by calling the toll-free TRU Help Line at 1-888-878-2826 (1-888-TRU-ATCM).

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 323-7053.